

Answers to questions DG ENV on progress report enhanced enforcement strategy

1. Can you explain the further assessment of the physical checks of derogated farms, as in the autumn update of the progress report an increasing trend of unacceptable findings is noticed. Similar numbers of unacceptable findings (niet akkoord) are also provided in the physical controls of the 2018 derogation report: 136 of 929 physical checks not acceptable. Can you similarly clarify why in the 2018 derogation report the final conclusion is 0.2 % non-compliance with the conditions (percentage niet-voldaan aan de voorwaarden).

- Thank you for these questions, and the opportunity to provide additional information on the functioning of the enhanced manure enforcement strategy and the reports regarding this strategy.
- To start with your last question to clarify the 0.2% non-compliance with the conditions in 2018. The total amount of companies that applied a derogation (17.986) are all administratively checked by RVO.nl. This resulted in 233 infringements (there can be more infringements on one company). Besides, there are of course physical controls carried out by the NVWA. Of the 17.986 companies that applied for a derogation 929 were physically controlled. Initially 136 infringements were found (there can be more infringements on one company). Of these 136 infringements 84 were rectified or a warning was given. Of 52 infringements reports were sent to RVO.nl. Of these 52 reports of the NVWA and the 233 initially established infringements after administrative controls by RVO.nl 32 companies were definitively not in compliance and their derogation was repealed, which is about 0.2% of the total amount of companies that applied for a derogation. This information is provided on p.11-13 of the 'Voortgangrapportage Handhaving en Uitvoering Mestbeleid 2018'.
- Regarding your first question on the progress report of autumn 2019. The explanation about the results of the administrative and physical controls of 2018 shows that the initial non-compliance results do not necessarily imply a trend in the definitive non-compliance numbers, while these companies still have the opportunity to rectify the situation for 2019 or there is reason to only address the situation with a warning. However, the results will be monitored closely, and if an increasing trend in non-compliance is determined further analysis may be needed to address this issue.

2. Does the risk based approach (risicogerichte aanpak) take into account the type of farm and/or the availability of land?

- Yes, the type of farm and/or the availability of land are taken into account in the risk based approach of the enhanced manure enforcement strategy.
- As described in the risk based approach for administrative and physical controls RVO.nl and NVWA (confidential document shared with the Commission for our meeting on 3 December 2019) RVO.nl and NVWA select certain types of companies. Regarding RVO.nl it is explained in Blok B (p.2) that the risk targeted companies are companies with a derogation, intermediary companies and companies in the three specific areas part of the enhanced manure enforcement strategy. Regarding the NVWA it is presented under the heading 'Risicogerichte aanpak fysieke controles (NVWA)' (p.5-8) that there is a risk based approach to target companies that have a derogation, that are based in one of the three specific areas and intermediaries.
- The risk based approach regarding companies that have a derogation targets inter alia pig farms, farms with less than 25 acres of land, farms which have different small plots (less than 0,5 acre), companies that have only land on sandy soils, companies that had no derogation in the previous year. Henceforth, especially the control of companies that have a derogation takes into account the type of farm and the availability of land. The risk based approach for the three specific areas (which areas are chosen based on the parameters availability of land, type of soil, cultivation of maize and surplus of manure) targets companies on which an administrative check shows possible irregularities.

3. It is explained that due to the judgement of the CBb, there have been delays in checks in pig and poultry farming. If the type of farm, is not a criterion for the risk based approach, will additional efforts be done on pig and poultry farms?

- Due to the judgement of the CBb RVO.nl has become more transparent about their fines policy and the levels of precision. Presently RVO.nl has restarted with all controls, which are also directed at pig and poultry farms. At this moment about 100 enforcement investigations are being carried out regarding pig farms.
- Although the type of farm is not a criterion for the risk based approach, most pig and poultry farms are located in the three areas on which the risk based approach is focused. Physical controls of the NVWA take place in these areas according to the strategy.

4. In the tables: please explain business inspections and why these were not included in the physical checks in 2019.

- Physical business inspections take part in the last quarter of the year, while first data have to be gathered and provided by RVO.nl in the first part of the year.

5. Please clarify the number of physical checks on non-derogated farms.

- There are several types of physical checks which take place on non-derogated farms, such as checks on the various components of the use of fertilizers decree (among others checks on the timely sowing of a catch crop) and business inspections (checks regarding application standards and production rights).
- These checks can also take place on derogated companies. It is not registered if these types of checks take place on derogated or non-derogated companies. Companies with a co-fermentation installation and pig farms (mostly non-derogated), are especially targeted in the risk based approach.

6. Can you confirm by when the full capacity of controls, in collaboration with regional enforcement partners were or will be installed, in De Peel / Gelderse Vallei / Twente.

- In De Peel all risk factors (according to VHS manure chapter 4.1.1) are strongly present and supervision capacity was available from the regional supervisors from the beginning. For that reason, cooperation with the regional authorities has been intensified in that region from autumn 2018. In addition, RVO.nl and the NVWA independently supervised risk-based inspections during 2018 and 2019. Operational contacts have improved considerably. It was a challenge to shape the cooperation legally so that better use could be made of each organizations legal competences and the available data. The exchange of data must be in accordance with the General Data Protection Regulation for legal proceedings. The exchange of data will be formalized in the short term by the signing of an agreement. Full results of all efforts are expected in 2020. To speed up this process LNV has financed extra staff for better operations.
- In De Gelderse Vallei, based on experiences with De Peel, cooperation was set up in 2019. Not all risk factors apply as strongly in this region as in De Peel. The available capacity and thus the number of joint inspections was limited in 2019, however a good basis has been laid for joint action and the formal sharing of information in 2020. Here too, results are expected in 2020 following the preliminary work carried out. In the summer of 2020, the regional governors together with LNV will evaluate the progress and discuss whether sufficient capacity is available. The experience gained in formalizing the exchange of information at De Peel is being used to sign an agreement in Gelderland as well. In addition, RVO.nl and the NVWA independently supervised risk-based supervision during 2018 and 2019.
- RVO.nl and the NVWA have independently supervised risk-based supervision in the Twente region in 2018 and 2019. The cooperation with regional supervising organizations has lagged behind because the relevant regional services have been reorganized. Agreements have been reached with these services to intensify cooperation in 2020. Here too, use is made of the experiences gained in other regions.
- As stated in the update report autumn 2019, which has been sent to the European Commission, the NVWA is presently recruiting 20 new inspectors. The goal is to train these new inspectors and get them in the field for monitoring and enforcement of manure regulation in accordance with the Enhanced Manure Enforcement as quickly as possible (2020) depending on the availability of qualified applicants.

7. What is the total number of intermediary business. We understand that 69 and 56 of these businesses were controlled respectively in 2018 and 2019?

- There are 1.215 companies registered as intermediary businesses at RVO.nl. About 750 of these companies are active with manure transport and respectively 69 in 2018 and 56 in the first half of 2019 were controlled.

8. On the "checks not dependent on location (intermediary businesses)" can you further explain the following statement in the report: Compared with 2018, the large difference in the field of manure transport can be explained because all transport movements were classified as not dependent on location in 2018, whereas in 2019 they were, by and large, classified within the various at-risk areas.

- In this update report on 2019 it is for the first time possible to categorize the transport movements per risk area. This categorization is among others done in order to offer more insight to the regional partners.
- It is yet too early to draw conclusions on the total number of controls in 2019 and therefore make the comparison with 2018. In 2019 the controls have been targeted more on those

companies under strengthened supervision, which may have an effect on the total number of controls.

9. How are the controls of manure transport organised. Is it possible to provide figures about how much manure transports take place by intermediary businesses from local areas. How much manure is exported, representing how many transports?

- The administrative controls carried out by RVO.nl are directed at the administrative obligations, especially the complete and just submission.
- The NVWA carries out two types of controls of manure transport. One type is a-select regarding the company, while the inspector controls all transport movements of manure that come by at a specific point on a road in a specific area. The other type is specifically targeted. The inspector gets a GPS-signal of the departure of a manure transport of a company under strengthened supervision (previous violations) and the inspector knows where the transport is probably going and controls the transport.

Registered manure transports in 2018

Within the Netherlands	817.206
Export	102.620
Import	37.264
Total	957.091

10. On the registration of intermediate businesses in 2019, 18 applications were rejected, the reasons is more strict controls on 'single registrations'. Can this requirement be further explained?

- Because there were signals that not all intermediary companies had a strictly separated administration, the existing legal framework of articles 38-42 have been applied more strictly in 2019. Article 38 defines that an intermediary must register the company separately. There cannot be two separate companies if the particular company is as well a farm.

11. Please provide an overview of the timing of all control instruments that still need to be installed, i.e. an update of Chapter 4.4 and Annex 3 to the enhanced enforcement strategy notified in June 2018.

- Document attached to this email.